

By: _____ .B. No. _____

Substitute the following for .B. No. _____:

By: _____ C.S..B. No. _____

A BILL TO BE ENTITLED

AN ACT

relating to the Texas emissions reduction plan.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 386.051(b), Health and Safety Code, is amended to read as follows:

(b) Under the plan, the commission and the comptroller shall provide grants or other funding for:

(1) the diesel emissions reduction incentive program established under Subchapter C, including for infrastructure projects established under that subchapter;

(2) the motor vehicle purchase or lease incentive program established under Subchapter D;

(3) the air quality research support program established under Chapter 387;

(4) the clean school bus program established under Chapter 390;

(5) the new technology implementation grant program established under Chapter 391;

(6) the regional air monitoring program established under Section 386.252(a);

(7) a health effects study as provided by Section 386.252(a);

(8) air quality planning activities as provided by Section 386.252(d);

1 (9) a contract with the Energy Systems Laboratory at
2 the Texas A&M Engineering Experiment Station for computation of
3 creditable statewide emissions reductions as provided by Section
4 386.252(a);

5 (10) the Texas clean fleet program established under
6 Chapter 392;

7 (11) the Texas alternative fueling facilities program
8 established under Chapter 393;

9 (12) the Texas natural gas vehicle grant program
10 established under Chapter 394;

11 (13) other programs the commission may develop that
12 lead to reduced emissions of nitrogen oxides, particulate matter,
13 or volatile organic compounds in a nonattainment area or affected
14 county;

15 (14) other programs the commission may develop that
16 support congestion mitigation to reduce mobile source ozone
17 precursor emissions;

18 (15) the seaport and rail yard areas emissions
19 reduction program established under Subchapter D-1;

20 (16) conducting research and other activities
21 associated with making any necessary demonstrations to the United
22 States Environmental Protection Agency to account for the impact of
23 foreign emissions or an exceptional event;

24 (17) studies of or pilot programs for incentives for
25 port authorities located in nonattainment areas or affected
26 counties as provided by Section 386.252(a); ~~and~~

27 (18) the governmental alternative fuel fleet grant

1 program established under Chapter 395;

2 (19) the purchase, maintenance, upgrade, and
3 operation of air monitoring equipment as provided by Section
4 386.252(a);

5 (20) fee-based contracts entered into under the
6 program established under Section 386.058; and

7 (21) the energy efficiency loan guarantee program
8 established under Section 388.013.

9 SECTION 2. Subchapter B, Chapter 386, Health and Safety
10 Code, is amended by adding Section 386.058 to read as follows:

11 Sec. 386.058. FEE-BASED CONTRACTS FOR PURCHASE OF
12 REDUCTIONS IN EMISSIONS OF NITROGEN OXIDES. (a) The commission by
13 rule shall establish a program authorizing the commission to enter
14 into fee-based contracts for the purchase of reductions in
15 emissions of nitrogen oxides.

16 (b) The program established under this section must:

17 (1) specify the types of projects that are eligible
18 for fee-based contracts under the program, such as marine emission
19 capture systems;

20 (2) measure nitrogen oxides emissions input and output
21 on a continuous basis;

22 (3) require nitrogen oxides emissions reduced under
23 the contract to be verified and certified by the commission;

24 (4) assign a dollar per ton fee based solely on the
25 dollar per ton cost of the reduction in emissions of nitrogen
26 oxides;

27 (5) require payments under the contract to be made

1 only for actual reductions in nitrogen oxides emissions that are
2 verified by the commission; and

3 (6) authorize the commission to enter into multiyear
4 contracts under the program.

5 (c) Notwithstanding Section 386.055:

6 (1) the commission may enter into a fee-based contract
7 under the program established under this section for a project
8 involving a new emissions reduction measure that would otherwise
9 generate marketable credits under a state or federal emissions
10 reduction credit averaging, banking, or trading program if, during
11 the term of the contract, the project is not used for credit under
12 any state or federal emissions reduction credit averaging, banking,
13 or trading program; and

14 (2) a project that was subject to a fee-based contract
15 under the program established under this section may be used for
16 credit under a state or federal emissions reduction credit
17 averaging, banking, or trading program if:

18 (A) the contract has expired or otherwise
19 terminated and the project is not subject to any other fee-based
20 contract entered into under the program established under this
21 section; and

22 (B) the project otherwise meets the requirements
23 of the applicable state or federal emissions reduction credit
24 averaging, banking, or trading program.

25 SECTION 3. Sections 386.104(c) and (c-1), Health and Safety
26 Code, are amended to read as follows:

27 (c) Except as otherwise provided by this subsection, for a

1 proposed project as described by Section 386.102(b), [~~other than a~~
2 ~~project involving a marine vessel or engine,~~] not less than 75
3 percent of vehicle miles traveled or hours of operation projected
4 for the five years immediately following the award of a grant must
5 be projected to take place in a nonattainment area or affected
6 county of this state. The commission may set the minimum percentage
7 of vehicle miles traveled or hours of operation required to take
8 place in a nonattainment area or affected county at a percentage and
9 for a period that is different from the percentage and period
10 specified by this subsection, provided that the commission may not
11 set the minimum percentage at a level that is less than 55 percent.
12 The commission may allow vehicle travel on highways and roadways,
13 or portions of a highway or roadway, designated by the commission
14 and located outside a nonattainment area or affected county to
15 count towards the percentage of use requirement in this subsection.

16 (c-1) For a proposed project involving a marine vessel or
17 engine, the vessel or engine must be operated in the intercoastal
18 waterways or bays adjacent to a nonattainment area or affected
19 county of this state for a sufficient percentage [~~amount~~] of time
20 over the lifetime of the project, as determined by the commission,
21 to meet the cost-effectiveness requirements of Section 386.105.
22 The percentage determined by the commission under this subsection
23 may not be less than 55 percent.

24 SECTION 4. Section 386.154(d), Health and Safety Code, is
25 amended to read as follows:

26 (d) A new light-duty motor vehicle powered by an electric
27 drive is eligible for a \$2,500 incentive if the vehicle:

1 (1) has four wheels or is a motorcycle as defined by
2 Section 541.201, Transportation Code;

3 (2) was manufactured for use primarily on public
4 streets, roads, and highways;

5 (3) has not been modified from the original
6 manufacturer's specifications;

7 (4) has a maximum speed capability of at least 55 miles
8 per hour;

9 (5) is propelled to a significant extent by an
10 electric motor that draws electricity from a hydrogen fuel cell or
11 from a battery that:

12 (A) has a capacity of not less than four kilowatt
13 hours; and

14 (B) is capable of being recharged from an
15 external source of electricity; ~~and~~

16 (6) was acquired on or after September 1, 2013, or a
17 later date as established by the commission, by the person applying
18 for the incentive under this subsection and for use or lease by that
19 person and not for resale; and

20 (7) is not a motor-assisted scooter or pocket bike or
21 minimotorbike as those terms are defined by Section 551.351,
22 Transportation Code.

23 SECTION 5. Sections 386.252(a) and (f), Health and Safety
24 Code, as effective September 1, 2021, are amended to read as
25 follows:

26 (a) Money in the fund and account may be used only to
27 implement and administer programs established under the plan.

1 Subject to the reallocation of funds by the commission under
2 Subsection (h), money from the fund and account to be used for the
3 programs under Section 386.051(b) shall initially be allocated as
4 follows:

5 (1) four percent may be used for the clean school bus
6 program under Chapter 390;

7 (2) six [~~three~~] percent may be used for the new
8 technology implementation grant program under Chapter 391, from
9 which at least \$1 million will be set aside for electricity storage
10 projects related to renewable energy;

11 (3) two [~~five~~] percent may be used for the Texas clean
12 fleet program under Chapter 392;

13 (4) not more than \$3 million may be used by the
14 commission to fund a regional air monitoring program in commission
15 Regions 3 and 4 to be implemented under the commission's oversight,
16 including direction regarding the type, number, location, and
17 operation of, and data validation practices for, monitors funded by
18 the program through a regional nonprofit entity located in North
19 Texas having representation from counties, municipalities, higher
20 education institutions, and private sector interests across the
21 area;

22 (5) 10 percent may be used for the Texas natural gas
23 vehicle grant program under Chapter 394;

24 (6) not more than \$6 million may be used for the Texas
25 alternative fueling facilities program under Chapter 393, of which
26 a specified amount may be used for fueling stations to provide
27 natural gas fuel, except that money may not be allocated for the

1 Texas alternative fueling facilities program for the state fiscal
2 year ending August 31, 2019;

3 (7) not more than \$1 million [~~\$750,000~~] may be used
4 each year to support research related to air quality as provided by
5 Chapter 387;

6 (8) not more than \$200,000 may be used for a health
7 effects study;

8 (9) at least \$6 million but not more than \$16 million
9 may be used by the commission for administrative costs, including
10 all direct and indirect costs for administering the plan, costs for
11 conducting outreach and education activities, and costs
12 attributable to the review or approval of applications for
13 marketable emissions reduction credits;

14 (10) six percent may be used by the commission for the
15 seaport and rail yard areas emissions reduction program established
16 under Subchapter D-1;

17 (11) five percent may be used for the light-duty motor
18 vehicle purchase or lease incentive program established under
19 Subchapter D;

20 (12) not more than \$216,000 may be used by the
21 commission to contract with the Energy Systems Laboratory at the
22 Texas A&M Engineering Experiment Station annually for the
23 development and annual computation of creditable statewide
24 emissions reductions obtained through wind and other renewable
25 energy resources for the state implementation plan;

26 (13) not more than \$500,000 may be used for studies of
27 or pilot programs for incentives for port authorities located in

1 nonattainment areas or affected counties to encourage cargo
2 movement that reduces emissions of nitrogen oxides and particulate
3 matter; ~~and~~

4 (14) not more than \$10 million may be used by the
5 commission for the purchase, maintenance, upgrade, and operation of
6 air monitoring equipment to be used in nonattainment areas and
7 affected counties;

8 (15) at least \$1 million and not more than \$5 million
9 shall be allocated for the energy efficiency loan guarantee program
10 established under Section 388.013; and

11 (16) the balance is to be used by the commission for:
12 (A) the diesel emissions reduction incentive
13 program under Subchapter C as determined by the commission; and
14 (B) fee-based contracts entered into under the
15 program established under Section 386.058.

16 (f) Not more than \$5 ~~[\$2.5]~~ million from the fund and
17 account may be used by the commission to conduct research and other
18 activities associated with making any necessary demonstrations to
19 the United States Environmental Protection Agency to account for
20 the impact of foreign emissions or an exceptional event.

21 SECTION 6. Chapter 388, Health and Safety Code, is amended
22 by adding Section 388.013 to read as follows:

23 Sec. 388.013. ENERGY EFFICIENCY LOAN GUARANTEE PROGRAM.
24 (a) The comptroller and the State Energy Conservation Office by
25 rule shall establish and administer a program that issues or
26 guarantees loans to be used for improvements that increase the
27 energy efficiency of residences that are not newly constructed.

1 (b) Rules adopted under this section must establish
2 eligibility requirements for receipt of a loan issued or guaranteed
3 under this section, including emissions reduction
4 cost-effectiveness criteria.

5 (c) The State Energy Conservation Office annually shall
6 submit to the commission and the laboratory a report that:

7 (1) evaluates the effectiveness of the program
8 established under this section; and

9 (2) quantifies energy savings and emissions
10 reductions as a result of this program for consideration in the
11 state implementation plan for emissions reduction credit.

12 SECTION 7. Section 389.002, Health and Safety Code, is
13 amended to read as follows:

14 Sec. 389.002. USE OF CERTAIN INFORMATION FOR FEDERAL
15 RECOGNITION OF EMISSIONS REDUCTIONS. The commission, using
16 information derived from the reports to the commission under
17 Sections 386.205, 388.003(e), ~~[and]~~ 388.006, and 388.013, shall
18 take all appropriate and necessary actions so that emissions
19 reductions achieved by means of activities under Chapters 386 and
20 388 are credited by the United States Environmental Protection
21 Agency to the appropriate emissions reduction objectives in the
22 state implementation plan.

23 SECTION 8. Section 391.002(b), Health and Safety Code, is
24 amended to read as follows:

25 (b) Projects that may be considered for a grant under the
26 program include:

27 (1) advanced clean energy projects, as defined by

1 Section 382.003;

2 (2) new technology projects that reduce emissions of
3 regulated pollutants from stationary sources;

4 (3) new technology projects that reduce emissions from
5 upstream and midstream oil and gas production, completions,
6 gathering, storage, processing, and transmission activities
7 through:

8 (A) the replacement, repower, or retrofit of
9 stationary compressor engines;

10 (B) the installation of systems to reduce or
11 eliminate the loss of gas, flaring of gas, or burning of gas using
12 other combustion control devices; or

13 (C) the installation of systems that reduce
14 flaring emissions and other site emissions [~~by capturing waste heat
15 to generate electricity solely for on-site service~~]; and

16 (4) electricity storage projects related to renewable
17 energy, including projects to store electricity produced from wind
18 and solar generation that provide efficient means of making the
19 stored energy available during periods of peak energy use.

20 SECTION 9. Section 391.205(a), Health and Safety Code, is
21 amended to read as follows:

22 (a) Except as provided by Subsection (c), in awarding grants
23 under this chapter the commission shall give preference to projects
24 that:

25 (1) involve the transport, use, recovery for use, or
26 prevention of the loss of natural resources originating or produced
27 in this state;

- 1 (2) contain an energy efficiency component;
- 2 (3) include the use of solar, wind, or other renewable
- 3 energy sources; ~~or~~
- 4 (4) recover waste heat from the combustion of natural
- 5 resources and use the heat to generate electricity; or
- 6 (5) reduce flaring emissions and other site emissions.

7 SECTION 10. Section 391.301, Health and Safety Code, is

8 amended to read as follows:

9 Sec. 391.301. RESTRICTION ON USE OF GRANT. A recipient of a

10 grant under this chapter must use the grant to pay the incremental

11 costs of the purchase, lease, or ~~and~~ installation of the project

12 for which the grant is made, which may include reasonable and

13 necessary expenses for the labor needed to install

14 emissions-reducing equipment. The recipient may ~~not~~ use the

15 grant for the costs of operating and maintaining the

16 emissions-reducing equipment.

17 SECTION 11. Section 394.003, Health and Safety Code, is

18 amended by amending Subsection (a) and adding Subsection (c) to

19 read as follows:

20 (a) A vehicle is a qualifying vehicle that may be considered

21 for a grant under the program if during the eligibility period

22 established by the commission the entity:

23 (1) purchased, leased, or otherwise commercially

24 financed the vehicle as an ~~a new~~ on-road heavy-duty or

25 medium-duty motor vehicle that:

26 (A) is a new natural gas vehicle or, subject to

27 Subsection (c), a used natural gas vehicle;

1 (B) is certified to the appropriate current
2 federal emissions standards as determined by the commission; and

3 (C) replaces an on-road heavy-duty or
4 medium-duty motor vehicle of the same weight classification and
5 use; or

6 (2) repowered the on-road motor vehicle to a natural
7 gas vehicle powered by a natural gas engine that is certified to the
8 appropriate current federal emissions standards as determined by
9 the commission.

10 (c) A used natural gas vehicle that is proposed to replace
11 an on-road heavy-duty or medium-duty motor vehicle must be of model
12 year 2017 or later, provided that the model year may not be more
13 than six years older than the current model year at the time of the
14 submission of the grant application.

15 SECTION 12. Section 394.005(b), Health and Safety Code, is
16 amended to read as follows:

17 (b) To be eligible for a grant under the program:

18 (1) the use of the qualifying vehicle must be
19 projected to result in a reduction in emissions of nitrogen oxides
20 of at least 25 percent as compared to the motor vehicle or engine
21 being replaced, based on:

22 (A) the baseline emission level set by the
23 commission under Subsection (g); and

24 (B) the certified emission rate of the qualifying
25 ~~[new]~~ vehicle; and

26 (2) the qualifying vehicle must:

27 (A) replace a heavy-duty or medium-duty motor

1 vehicle that:

2 (i) is an on-road vehicle that has been
3 owned, leased, or otherwise commercially financed and registered
4 and operated by the applicant in Texas for at least the two years
5 immediately preceding the submission of a grant application;

6 (ii) satisfies any minimum average annual
7 mileage or fuel usage requirements established by the commission;

8 (iii) satisfies any minimum percentage of
9 annual usage requirements established by the commission; and

10 (iv) is in operating condition and has at
11 least two years of remaining useful life, as determined in
12 accordance with criteria established by the commission;

13 (B) replace a heavy-duty or medium-duty motor
14 vehicle that:

15 (i) is owned by the applicant;

16 (ii) is an on-road vehicle that has been:

17 (a) owned, leased, or otherwise
18 commercially financed and operated in Texas as a fleet vehicle for
19 at least the two years immediately preceding the submission of a
20 grant application; and

21 (b) registered in a county located in
22 the clean transportation zone for at least the two years
23 immediately preceding the submission of a grant application; and

24 (iii) otherwise satisfies the mileage,
25 usage, and useful life requirements established under Paragraph (A)
26 as determined by documentation associated with the vehicle; or

27 (C) be a heavy-duty or medium-duty motor vehicle

1 repowered with a natural gas engine that:

2 (i) is installed in an on-road vehicle that
3 has been owned, leased, or otherwise commercially financed and
4 registered and operated by the applicant in Texas for at least the
5 two years immediately preceding the submission of a grant
6 application;

7 (ii) satisfies any minimum average annual
8 mileage or fuel usage requirements established by the commission;

9 (iii) satisfies any minimum percentage of
10 annual usage requirements established by the commission; and

11 (iv) is installed in an on-road vehicle
12 that, at the time of the vehicle's repowering, was in operating
13 condition and had at least two years of remaining useful life, as
14 determined in accordance with criteria established by the
15 commission.

16 SECTION 13. Section 151.0515(b), Tax Code, is amended to
17 read as follows:

18 (b) In each county in this state, a surcharge is imposed on
19 the retail sale, lease, or rental of new or used equipment in an
20 amount equal to one ~~[1.5]~~ percent of the sale price or the lease or
21 rental amount.

22 SECTION 14. Section 501.138, Transportation Code, is
23 amended by amending Subsections (b-1), (b-2), and (b-3) and adding
24 Subsection (b-4) to read as follows:

25 (b-1) Except as provided by Subsection (b-4), fees ~~[Fees]~~
26 collected under Subsection (b) to be sent to the comptroller shall
27 be deposited to the credit of the Texas ~~[Mobility Fund, except that~~

1 ~~\$5 of each fee imposed under Subsection (a)(1) and deposited on or~~
2 ~~after September 1, 2008, and before September 1, 2015, shall be~~
3 ~~deposited to the credit of the Texas]~~ emissions reduction plan
4 fund.

5 (b-2) The comptroller shall establish a record of the amount
6 of the fees deposited to the credit of the Texas emissions reduction
7 plan fund [~~Mobility Fund~~] under Subsection (b-1). On or before the
8 fifth workday of each month, the Texas Department of Transportation
9 shall remit to the comptroller for deposit to the credit of the
10 Texas Mobility Fund [~~emissions reduction plan fund~~] an amount of
11 money equal to the amount of the fees deposited by the comptroller
12 to the credit of the Texas emissions reduction plan fund [~~Mobility~~
13 ~~Fund~~] under Subsection (b-1) in the preceding month. The Texas
14 Department of Transportation shall use for remittance to the
15 comptroller as required by this subsection money in the state
16 highway fund that is not required to be used for a purpose specified
17 by Section 7-a, Article VIII, Texas Constitution, and may not use
18 for that remittance money received by this state under the
19 congestion mitigation and air quality improvement program
20 established under 23 U.S.C. Section 149.

21 (b-3) This subsection and Subsections (b-1) and
22 [~~Subsection~~] (b-2) expire on the last day of the state fiscal
23 biennium during which the Texas Commission on Environmental Quality
24 publishes in the Texas Register the notice required by Section
25 382.037, Health and Safety Code.

26 (b-4) Fees collected under Subsection (b) to be sent to the
27 comptroller shall be deposited to the credit of the Texas Mobility

1 Fund if the fees are collected on or after the last day of the state
2 fiscal biennium during which the Texas Commission on Environmental
3 Quality publishes in the Texas Register the notice required by
4 Section 382.037, Health and Safety Code.

5 SECTION 15. The changes in law made by this Act apply only
6 to a Texas emissions reduction plan grant awarded on or after the
7 effective date of this Act. A grant awarded before the effective
8 date of this Act is governed by the law in effect on the date the
9 award was made, and the former law is continued in effect for that
10 purpose.

11 SECTION 16. The change in law made by this Act to Section
12 501.138, Transportation Code, applies only to a fee collected on or
13 after the effective date of this Act. A fee collected before the
14 effective date of this Act is governed by the law in effect when the
15 fee was collected, and the former law is continued in effect for
16 that purpose.

17 SECTION 17. This Act takes effect September 1, 2021.